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Paper No. 6

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WASHINGTON, D.C. 20004

In re Application of
Kim, et al.
Application No.: 09/893,557
Filed: June 29, 2001
Attorney Docket No.: 8733.475.00
For: REFLECTIVE AND TRANSREFLICTIVE
LIQUID CRYSTAL DISPLAY DEVICE AND
ITS MANUFACTURING METHOD

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

COPY MAILED

NOV 27 2001

This is a decision on the petition under 37 CFR 1.47(a), filed October 16, 2001. **OFFICE OF PETITIONS**

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 29, 2001 without an executed oath or declaration. Accordingly, on August 17, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for their filing.

In response, on October 16, 2001, a declaration executed by 4 of 5 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Seung K. Lee, an attorney handling the case, accompanied the petition. Ms. Lee explains that non-signing joint inventor Yong Beom Kim was mailed a registered letter including the combined Declaration and Power of Attorney for Mr. Kim's execution to his last known address. This mailing was returned. In addition, attempts to reach Mr. Kim at home and at work via the telephone were fruitless.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor cannot be reached. Applicants stated that calls were made to the inventor's telephone numbers of record, but that there was no answer. In addition, a copy of the declaration was mailed to the inventor's last known address, but was purportedly returned.¹

Applicants have not shown the diligence required to attain Rule 47 status. An affidavit or declaration of facts must be signed by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. A copy of the complete application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. A forwarding address should be requested.

Copies of documentary evidence such as certified mail return receipt, any inquiries of the telephone directory, or any extant national or regional registry, telegrams, computer searches (LEXIS), and documented inquiries of his last known employer etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. Petitioners should provide a verified translation of any supporting documentation if the documentation is in a language other than English. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs slightly from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By facsimile: (703) 308-6916
 Attn: Office of Petitions

¹ The Office cannot read the Korean language envelope. Thus, why the envelope was returned cannot be ascertained --was it undeliverable, was it refused, etc.

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



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